

THE BOSTON MORNING POST.

PUBLISHED DAILY, AT NO. 21 WATER STREET, BY BEALS & GREENE.—CHARLES GORDON GREENE, EDITOR.

VOLUME XI. NO. 68.

THURSDAY MORNING, AUGUST 18, 1836.

PRICE \$6 PER ANN. IN ADVANCE.

DEMOCRATIC NOMINATIONS.
FOR PRESIDENT,
MARTIN VAN BUREN.
FOR VICE PRESIDENT,
RICHARD M. JOHNSON.
FOR ELECTORS AT LARGE
HON. NATHAN WILLIS, of Pittsfield.
HON. SETH WHITMARSH, of Seakonk.
FOR DISTRICT
No 1, CALER EDDY, of Boston.
2, ROBERT RANTOUL, of Beverly.
3, JOSEPH KITTREDGE, of Andover.
4, FRANCIS TUTTLE, of Acton.
5, SAMUEL TAYLOR, of Sutton.
6, SAMUEL C. ALLEN, of Northfield.
7, JOSEPH FITCH, of New Marlborough.
8, HARVEY CHAPIN, of Springfield.
9, BENJAMIN P. WILLIAMS, of Roxbury.
10, NATHAN C. BROWNELL, of Westport.
11, THOMAS MANDELL, of New Bedford.
12, JABEZ P. THOMPSON, of Halifax.
FOR GOVERNOR,
MARCUS MORTON.
FOR LT. GOVERNOR,
WILLIAM FOSTER.

RAILWAY HOUSE, MILTON, MASS.
The subscriber respectfully informs the public that he has taken a lease of the extensive house, and newly refitted and furnished it throughout with every article necessary for the accommodation and comfort of travellers, convivial parties and boarders.

A beautiful grove with pleasant walks, a garden, swing, &c. are connected with this establishment, and its proximity to the city renders it an inviting place of resort for those who may desire to spend a short time away from the confusion and sultry air of a crowded place of business.

The boarders are here newly refitted, and good attendants provided.
The land will be stored with the best of provisions, and such delicacies as the seasons afford. The bar will also be kept supplied with choice wines and liquors. Good stabling for horses.
The Worcester and Mil. line of stages leave for Boston every morning and noon, and return at noon and evening.
J. S. 25
epit
SILAS HALL.

WARREN HOUSE.
At the junction of Merrimack and Friend Streets.
This establishment having now gone through extensive and thorough repairs and additions, will compare with any other public house of its size. It has been furnished from top to bottom with new furniture, bedding, carpeting, &c., and is now open for the accommodation of travellers, &c. It is the intention to conduct the House after the mode of the most approved public houses—and every effort will be made personally, and by well-tried assistants, to please his former custom and those who may visit the Warren House for the first time.
Extensive stables, with pure water, is attached to the establishment.
J. S. 25
epit
AZARIAH PROCTOR.

THE SUBSCRIBER, late of the Warren Hotel, Woburn, informs his friends and the public, that he has opened a new Hotel in Cohasset, in the centre of the town, near the meeting-house, where he would be happy to wait on all those who may favor him with their patronage.
Ladies and Gentlemen, with their families, can be accommodated with board on reasonable terms.
Stages run to and from the house three times a day, to meet the Hingham Steamboat General Lincoln.
N. B. Good Saddle Horses and Carriages may be had at all times.
J. S. 27
epit
THOMAS SMITH.

TABLE D'HOIE.
At the Howard Street House, the subscriber respectfully informs his friends and the public, that his Ordinary continues to be kept daily for their accommodation. Dinner is served at 2 o'clock p.m. and is elegantly and furnished with every luxury of the season. Gentlemen wishing to dine at any other hour, may be accommodated at the Restaurant. His cellars are provided with wines of every description, and of the choicest qualities—for which the House has been so long celebrated.
J. S. 29
epit
JAMES RYAN.

MASSACHUSETTS HOUSE.
WALTHAM, MS.
The subscriber respectfully informs his friends and the public, that this large and elegant establishment, 8 miles from the city, is now open for the reception of company, and every effort will be made to give entire satisfaction to individuals and parties on pleasure, at immediate notice.
J. S. 29
epit
JOHN DAVIS.

FOR SALE.
VALUABLE REAL ESTATE IN CHARLESTOWN.
Three pleasant and convenient houses, situated in Franklin street, about ten minutes walk from Warren Bridge. The first, containing about 5200 feet of land, is built of wood, has a parlor, sitting room, kitchen, wash room, and seven chambers, a good cellar paved with brick, good rain and well water brought into the house, and a large yard with fruit trees.
The second, of brick, contains about 2000 feet of land, has a parlor, sitting room, kitchen, five chambers, a good cellar, out-house, and a large yard, suitable for a small garden.
The third is of wood, and contains about 3000 feet of land, has a parlor, sitting room, kitchen, five chambers, a good cellar, out-house, and a large yard, suitable for a small garden.
Said Houses are in complete repair, and will be sold separately or together. Considerable payment will be 25 per cent down, the remainder in one, two and three years, with interest, secured by mortgage on the property, if desired by the purchaser.
Also—a lot of Land, containing about 4300 feet, on the corner of Maine and Franklin streets, with a good building, suitable for a merchant or mechanic, which will be sold on the above-mentioned terms of payment.
For further particulars, inquire of S. V. KANEY, Charlestown, or of H. DAVIDSON, No. 37 Long Wharf, Boston.
J. S. 29
epit

PAPER MILL FOR SALE.
For sale in the town of Leominster, in the county of Worcester, a Paper Mill, with two engines, and a good Cylinder Machine, all in good order to do a good business—it is on a first rate stream, commanding the whole water—has a never-failing fountain of spring water carried into the mill in lead pipes.
Also—a good House and Barn, and about 40 acres of good land—it is seldom so good a chance is offered to young men wishing to establish themselves in that business. The present owner cleared the property in a very few years, when paper was made by hand, and relinquishes it only on account of ill health—any credit will be given that may be wanted, and a session held the first day of June next. For terms, apply to EDWARD SIMMONS, on the premises, or at the State St., Boston.
P. S. If not sold by that time, it will be let.
may 17
epit

FOR SALE.
A Farm very pleasantly situated in the southerly part of Billerica, on the main road from Boston and Lowell, containing about 150 acres of land, well proportioned into mowing pasture, tillage, orchard and woodland. The farm is well fenced with stone wall, and can be profitably improved as a vegetable and milk farm, being distant about 7 1/2 miles from Lowell. There is on the premises a two-story dwelling house, well finished, shed, wood house, granary and stable house, two good barns, all of which are nearly new. The house and barn are supplied with water by an aqueduct from a spring that has never failed, besides there is a well of fine water under cover. For further information inquire of CROSBY & HARRWOOD, No. 5 Exchange St., or of the subscriber on the premises.
J. S. 29
epit
JOSHUA ROGERS.

REAL ESTATE.
For sale or exchange—one undivided half of an estate, situated in Foster place, Tremont street, and Eliot street, containing 24 1/2 feet of land, being now improved by two three-story houses, including a carriage place, and a large Livery Stable on said place and Eliot st., on which great improvements may be made, by erecting eight dwelling houses on the land now occupied by said stable, as per plan of subdivision, which may be seen by application to the office of HOLBROOK & SHATTUCK, Real Estate Brokers, 51 Court st.

Also, for sale—an estate situated at No. 6 South Margin at, containing 1527 feet of land, and three convenient wooden dwelling-houses, in complete repair, good water on both kinds on the premises—rent \$360 per annum.
Also, for sale in said street—a good, thorough built Carpenter's Shop, 20 by 30 feet. Apply as above.
epit
AUGUST 18

HOUSE FOR SALE.
In Cambridgeport, nearly opposite the Universalist Meeting house, a wooden house, containing six rooms, good cellar, wood house, &c. on moderate terms. Apply to J. FELLOWS, on the premises.
epit
AUGUST 18

BOSTON MORNING POST.

THURSDAY, AUGUST 18, 1836.

LAW OF LIBEL.

[Concluded from yesterday's Post.]

We now come to the cases before courts of law, cited by Judge Thacher, as follows—

Hutchinson, in his 3d vol. of the History of Massachusetts Bay, mentions a fact, which occurred in 1768, during the administration of Sir Francis Bernard.—“While the Assembly was sitting, a most abusive piece against the Governor was published in the Boston Gazette. The Council took notice of it, and advised the Governor to lay it before the two houses by a message. The Council, in their address, pronounced it a scandalous libel upon the Governor. The House was of opinion, that, as no particular person, public or private, was named, it could not affect the majesty of the King, the dignity of the government, the honor of the general court, nor the true interest of the province; and that it was not proper to take any notice of it.”

The Superior Court was held soon after in the County of Suffolk. The Chief Justice, in his charge to the grand jury, mentioned this libel as an offence, of which, unless they departed from their oaths, they could not avoid making presentment. The Attorney General laid a bill before them, upon which they returned “ignoramus,” and thus says the historian “gave a sanction to libels, which multiplied more than ever.”—3 Hutch. Hist. 186.

“In a part of their answer, the House say, should the proper bounds of it (the liberty of the press) at any time, be transgressed, to the prejudice of individuals, or the public, it is their opinion, at present, that provision is already made for the punishment of offenders in the common course of the law.—Mass. State Papers 119.

In a letter sent by the Council of the Province to William Bolla, Esq. the Agent in England, dated Oct. 30, 1770, they remark on the subject of libels—

“If such publications have taken place here, and no notice has been taken of them, where does the fault lie? Surely in him who acts for the King, as his Attorney, in his not drawing indictments, summoning witnesses in support of the same, and then laying the whole before the Grand Jury?” and, if he hath not done it, the fault is not in the Council, unless they had endeavored to prevent it, which is very far from being the case, as will presently be shown.”—Speeches of Governors of Mass. from 1765 to 1775, &c. p. 275, published by Russell & Gardner, 1808.

But the Grand Jury, at a subsequent period, were more ready to find bills for this offence. It serves, however, to show that the law of libel was an acknowledged part of the common law of the Province, however it might be used, or abused, in warm party times, to effect a political purpose. “At the Superior Court for the County of Suffolk, in 1769, the Grand Jury found bills of indictment against Sir Francis Bernard, then Governor of the Province, though absent with leave, Thomas Gage, Esq. the Commander in Chief of all his Majesty's forces on the Continent, the five Commissioners of his Majesty's Customs, the Collector and Comptroller for the port of Boston, for writing certain letters to the Secretary of State, and other the King's ministers, and therein slandering the inhabitants of the town of Boston, and of the Province of Massachusetts Bay. The Attorney General had refused to draw the bills, when requested by the Grand Jury, and they either drew them themselves, or employed some other lawyer, unknown, and presented them to the Court.”—3 Hutch. Hist. p. 262.

The historian says, that “the Court thought it advisable to take no notice of this irregular, wanton, proceeding. It had been the practice for the Clerk, without any special order, to issue a warrant of commitment, or a summons, according to the nature of the offence, returnable the next term, where the person charged was not in custody. The Court so far interposed, as to give private orders to the Clerk, to issue no summons, upon these bills, without special direction.” It is stated, in a note, that the Attorney General, afterwards, in consequence of the King's order to the Lieutenant Governor, entered, in behalf of the Crown, a *nolle prosequi* upon each of these indictments.

It seems then that an effort was made in 1768, by one of the Crown Judges to procure from the grand jury an indictment against the publishers of the Boston Gazette, for a libel upon Gov. Bernard, and the jury, who were the judges of the law and the fact, returned “ignoramus” that is, that they knew of no such crime having been committed in contravention of any law within their jurisdiction. When the Legislature were applied to for more summary redress, they told the Governor that provision was already made for the punishment of offending in the common course of law, that is, under the Statute of 1692, which imposes a fine of ten shillings, and gives the jurisdiction of the offence to a justice of the peace.

In another case the grand jury found bills against Gov. Bernard and Gen. Gage, for writing libels against the people of the colony, which indictments the court refused to notice, because the proceeding was irregular and wanton. Here then we have the fact presented by Judge Thacher himself, that the only two cases of libel were brought to the notice of a “court of law,” in this State previous to the revolution, were refused to be sustained, and these attempts to punish for libel were made in high party times, when men, who were preparing to cut each others throats, could not have been very scrupulous as to the means they would seize upon to annoy their enemies. Mr Bolla's opinion that they could indict for libels in Massachusetts, can weigh nothing against the well authenticated colonial laws we have before quoted, which expressly forbade the recognition of any laws but those made by the colonial legislatures.

Let us now see under what clause of our constitution Judge Thacher attempts to steal in upon as the English common law libel law. The Judge says—

By article 6th of the 6th chapter of Constitution of this Commonwealth, “all laws which have heretofore been adopted, used and approved in the province, colony, or state of Massachusetts Bay, and usually practised on in the courts of law, were still to remain and be in force, until altered or repealed by the legislature; such parts only excepted as were repugnant to the rights and liberties contained in that constitution.”

And in this clause he has attempted to prove, as before shown, that the English—no—the “Massachusetts” common law libel law crept in.

The object of the framers of the constitution was

the same as that of their fathers, to be governed by a code of well defined, well known laws; and in this clause of the constitution they recognized no law of any kind, whether “Massachusetts” common law, or Massachusetts statute law, but such as was well known to the people as law, by being usually, mark, “usually practised on in the courts of law,” at the time of the adoption of the constitution. Suppose the legislature had banished a man, as we believe they once did, for a libel before the date of the constitution, that body, not being a court of law, its acts of this nature were not and could not be recognized and confirmed by this clause of the constitution. Their act of banishment could not offer authority for a court of law to issue a decree or banishment against whom it pleased. Nor could the two cases of libel cited by Judge Thacher as having been brought to the notice of a court of law, before the adoption of the constitution, if the court had decided in favor of their legality, which they did not, lend any sanction to the law of libel, for the constitution recognizes no laws but such as are usually, mark, “usually, practised on in the courts of law, and two cases in the lapse of more than two centuries could not upon any fair principle be construed into a usage—they form at most but an exception to a usage.

It is a principle of law, utterly contemned however by Judge Thacher in this case, that penal laws are to be construed strictly. We see then, that as neither the English, nor “Massachusetts” common law libel law was “usually” practised upon in the courts of law in this State previous to the adoption of the constitution, it could not have been adopted and re-enacted in the clause of that instrument cited by the judge. But there is another great failure on the part of Judge Thacher. He has failed to show that our judge law of libel is the same as the libel law he is contending existed at the time of the adoption of the constitution. He has utterly omitted this important consideration. Here is the judge's definition of a libel, recognized he says, as the law by the settlers of New England, and bequeathed to us as a precious inheritance, and which the constitution of 1780 adopted, if it adopted any.

The common law of England, at the time of the emigration of the settlers of New England, and from time immemorial prior to that event, punished as offences against the State, “every libel made either against a private man, or against a magistrate or public person.” If it be against a private man, says Lord Coke, “it deserves a severe punishment, for although the libel be made against one, yet it incites those of the same family, kindred or society to revenge, and so tends per consequens to quarrels, and breach of the peace, and may be the cause of shedding of blood, and of great inconvenience. If it be against a magistrate, or other public person, it is a greater offence; for it concerns not only the breach of the peace, but also the scandal of government.”

“Although the private man or magistrate be dead at the time of the making of the libel, yet it is punishable: for in the one case it stirs up others of the same family, blood, or society to revenge, and to break the peace, and in the other the libeller traduces and slanders the state and government, which dies not.”

“It is not material whether the libel be true, or whether the party against whom it is made be of good or ill fame; for in a settled state of government, the party grieved ought to complain for every injury done him in an ordinary course of law, and not by any means to revenge himself, either by the odious course of libelling or otherwise. The case de Libellis Jur. mores, 3 Jac. I. 5 Co. 125.

This we say was the law adopted by the constitution in the 6th article of the 6th chapter, if it adopted any. The judge, hold as we find him in his assertions, will hardly, we think, venture to say that our judge law of libel is like that quoted from “my lord Coke.” And if it be not, who has changed it—who had a right to change it? If we took the English common law libel law under the above cited clause of the constitution, we took it as a whole, not in twain. The judges do not, and have not since 1808, recognized the English common law libel law as above quoted from “my lord Coke” the only kind genuine, but have used and now use another kind, a spurious kind of their own manufacture, made too in utter contempt of that clause of the constitution which says the judiciary shall never exercise legislative powers. Aye! and made too in defiance of their own recognized principles, for Judge Thacher says in the case under consideration that,

“If the English law of libel had not been adopted in this Commonwealth, as part of our common law, prior to the constitution, there would have been no law to punish the offence, and Judge Sumner could not, with propriety, have quoted Hawkins, or any other English book, as a binding authority.”

We now come to the second part of Judge Thacher's opinion, that concerning the “Massachusetts” common law libel law, that which the bench has manufactured since 1790. It seems that the first case of libel under the English common law libel law, was that of Edmund Freeman, in 1791. And where did the court get their law—from the statute book? No—for none is there to be found. From the constitution? No—for that instrument expressly prohibits it. But from Hawkins's reports, a British reporter, of cases in the King's courts of Great Britain, laws which a corrupt set of ministerial tools had in vain attempted to enforce upon us, and to escape from which we had waded through a bloody war of eight years. Here is what Judge Thacher relies upon for authority. Judge Sumner, it seems, gave the opinion on the final trial, as follows—

Sumner, Justice, in his address to the jury, defined the offence of libel, as it is described by Hawkins, P. C. B. i. c. 73, sects. 1 and 2. As to the first point, Hawkins, in his Pleas of the Crown, says—“That a libel in a strict sense, is taken for a malicious defamation, expressed either in printing or writing, and tending either to blacken the memory of one who is dead, or the reputation of one who is alive, and to expose him to public hatred, contempt or ridicule;—and it may be expressed either by signs or pictures—as by fixing up a gallows against a man's door, or by painting him in a shameful and ignominious manner.” He adds, “the reason why the law so severely punishes all offences of this nature, is the direct tendency of them to a breach of the public peace, by provoking the parties injured, their friends and families, to acts of revenge which it would be im-

possible to restrain by the severest laws, was there no redress from public justice, for injuries of this kind, which of all others are most sensibly felt.”

This only shows that our courts early commenced the daring acts of encroachment upon the rights of the people and the powers delegated to co ordinate branches of the government, which their successors have not hesitated to pursue, until they have finally awakened the public attention, aroused the popular indignation, and which will ultimately end in breaking some of the Judges, and in the overthrow of the present judicial system.

The reasons assigned for this English law, are false and fraudulent, for libels no more tend to a breach of the public peace, than does verbal slander or contumacious words spoken of, or to, a person, and these are not indictable offences. It is a false reason assigned by English judges to justify their fraudulent acts against the liberties of the people and of the press. But whatever may be, or may have been, the law, and the reason for the law, in England, they lend no authority for the exercise of the like power by our judges and our courts. In England their courts are common law courts; they have their existence from common law authority, and exercise by prescription, which is law in England, within their sphere of action, an authority as absolute and arbitrary as the British Parliament exercises within its sphere of action. Our government, in all its branches, is based upon different principles, upon the principle that the several functionaries shall move within well-defined orbits—that we shall be governed by a well-defined written law. The people in their fundamental law, the constitution, have prescribed the limits of legislative action. The law and the constitution have prescribed the limits of the judicial action. As well might our legislature cite the unlimited power of the British Parliament, instead of our constitution, as authority for their acts, as our judiciary to cite the decision of English courts, the opinion of English judges, instead of the law, for their authority. Our courts are established by written law, not by prescription. They have no authority but what the written law of the State gives them. They can take cognizance of no act as an offence, but such as is made an offence by statute. No act can become a crime by judicial decision.

The legislative authority must first make an act a crime, annex a penalty to a violation of the law, and designate the court that shall have jurisdiction of the offence, otherwise there can be no offence, nor can any court otherwise legally try a case. If they do it, they violate the law, and their oaths of office. There was no proof offered in Freeman's case that the English common law of libel had ever been practised upon in our courts prior to the adoption of the constitution. There was no pretence that any statute law of the State made the offence charged, a crime. The whole was an arbitrary assumption of undesignated power. It is needless, and perhaps it would be fruitless to inquire into the motives of the court in assuming such power; it is sufficient to know the fact that it was illegally assumed, that it was not only without law, but in direct violation of several provisions of the constitution; and that no length of prescription can consecrate that illegal act. It is as wrong and illegal at this time, as it was on the moment that the act was committed. Eternity itself is insufficient in duration to make wrong right.

Judge Thacher relies upon the opinion of N. P. Sargent, Francis Dana, Robert Treat Paine, Increase Sumner, Nathan Cushing, and James Sullivan, whom he avers sanctioned, either expressly or tacitly, this prosecution. Whatever may have been the standing, acts and character of all those individuals, or whatever may have been their motives in the act under consideration, that standing and those motives cannot alter the facts in the case—they cannot make the law, nor abrogate the plain provisions of the constitution. We prefer to rely upon the constitution and the law for our guide, than to take the opinion of even those men concerning them. Having the constitution and the laws before us, we feel ourselves, and every man of sense will feel himself, as competent as the courts, who may be corruptly swayed, to judge of their meaning. But admitting, simply for argument sake, that this libel case was legal, that does not offer any justification to the present law of libel. Our law of libel, even before the legislature interposed to restrain in part the outrages of the bench upon the subject, was not the libel law laid down in this case. Where have the judges found their authority for altering the law? We answer, they have usurped it. It was altered by Judge Parsons in 1808, in the case of the Commonwealth against Clapp.

Judge Thacher, conscious of the weakness of his case, claims that the legislature sanctioned the present libel law by their acts of 1826, 1832, and in the recent revised statutes, as follows—

Not only has the offence of libel been recognized by the judicial decisions of the highest tribunal of this Commonwealth, but in repeated acts of the Legislature.

The act of 1826, c. 107, relating “to prosecutions for Libel and to Pleadings in actions for Libel and Slander,” declares that “in every prosecution for libel it shall be lawful for any defendant upon trial of the cause, to give in evidence in his defence, the truth of the matter contained in the publication charged as libellous.” See also R. S. ch. 133, s. 6.

It was always competent for the Defendant in a civil action of this description, to plead the truth and to give it in evidence, to avoid the payment of damages. The word “prosecution” is appropriate to a criminal cause.

The act 1832, ch. 130, “enlarging the jurisdiction of the Court of Common Pleas in criminal cases,” enacts in Sec. 3, “that any person who shall be convicted in the said Court upon any prosecution for a Libel, may appeal therefrom unto the Supreme Judicial Court.”

This provision is adopted into the Revised Statutes, ch. 82, s. 23. The expression there, is, “any person convicted in the Court of Common Pleas upon any indictment for a libel.” The same expression is used in R. S. ch. 86, s. 10, relative to appeals from this Court.

There can be no validity in this apparently incidental

sanction of the Legislature. In relation to the act of 1826, the writer of this article can speak understandingly, for he was a member of the legislature when that act passed. Public attention had been awakened to the outrage of the bench in refusing to admit the truth to be given in evidence in the case of libels.

This law was introduced to curb this licentiousness in the courts. The question as to the existence of the crime of libel was not started. It was considered as a matter of course that the courts would not arbitrarily punish men without law. The legislature rebuked and repressed the wrong conduct of the bench so far as their knowledge of this wrong conduct extended; and now the courts have the effrontery to claim this reproof of a part of their evil and illegal doings, as a sanction to all the rest! Admirable logic! Spotless purity of the crime! The law of 1832 affords no better authority, than does that of 1826. In the two first laws, the word indictment which refers exclusively to the criminal libel law, was not used. Before the passage of the Revised Statutes in 1835, the whole mass of the law of libel had been publicly assailed as a judicial corruption, and it requires not the gift of conjury to see that the Revised Statutes were in consequence cunningly worded by some designing lawyer to sustain, by this seeming support, the usurpations of the bench. But there being no law, neither common law nor statute law, for libels, this statutory expression has nothing to act upon, nothing to attach itself to, and of course must be nugatory.—Having thus shown that there is no common law libel law, and no statute law libel law, we have now arrived to the still stronger ground—the Constitution, by which we shall show that the people have not only not delegated to the legislature any authority to make a libel law, but have absolutely prohibited the legislature from making any such law; and they have also prohibited all the other branches of the government from exercising legislative powers.

The Constitution says, “The liberty of the press is necessary to the security of a state, it ought not, therefore, to be restrained in this Commonwealth.” No expression can be more full and unqualified than this.—The legislature has no power but what is derived from the written law, which the people have given them for their guide. They surely cannot pass this prohibited ground; nor have they attempted it in the case of libels. It is neither necessary nor relevant to discuss the question which Judge Thacher has seen proper to do some what elaborately, though not very pertinently, whether a libel law would or would not be beneficial. It suffices to say, that the people, in their sovereign capacity, with their plenary power, have settled that question in the negative. The ground assumed of old, the offspring of a little mind or a depraved heart, and now repeated for the thousandth time, parrot like, by Judge Thacher, that there is a difference between the liberty and the licentiousness of the press, that to punish the licentiousness of the press is not to restrain its liberty, is utterly untenable. To punish for libels is an after censorship of the press, introduced by a corrupt and subservient set of English Judges, as a substitute for the previous censorship of the press, which the British Parliament had refused to continue in 1694, in the reign of William and Mary. The object of the framers of the Constitution was to secure, by a written, well defined and fixed law, the entire security and freedom of the press. In their phraseology, understood as all who know the meaning of plain English must understand it, all branches of the government are deprived of the right of making the publication of any thing a public crime. If the courts and the legislature be permitted to discriminate between the liberty and the licentiousness of the press, and allowed to punish the licentiousness, the unrestrained liberty of the press, guaranteed in the Constitution, becomes a nullity. Whatever the court or the legislature, for the time being, disliked, they would call licentious, and punish. Their opinions, and not the Constitution, would be our guide and law. But the Constitution makes no such distinctions. Its terms are unqualified. What is the object of punishing for a libel? Most surely to restrain people from publishing the like matter in future, and this restraint our courts have the effrontery to call no restraint—no violation of that provision of the Constitution. We will not insult the understanding of our readers by any further attempt to refute such nonsense.

It behoves jurors to look to this business. We can have no crimes but statutory crimes, and this remark applies not only to libels, but to many other offences which the bench have usurped the authority to punish. If there be no statute, there can be no crime. Each individual juror is bound to give his verdict according to his own judgment in the case. The Judge has no business to give his opinion of the law. If there be a law, it can be shown and read to the jury; and in that event any man of common sense is just as competent as the Judge to decide the case. It is to be hoped that in future there will be some one on every jury who will insist, in every criminal case, upon the production of the statute under which the person is arraigned, for the alleged offence, and if there be no statute, that they will instantly acquit him. This will operate as an immediate relief from some of the oppressions of Judge law, but it will not entirely satisfy the public, who demand punishment for past offences as security against future encroachments. The people require a new judicial system, one that shall change the tenure of the judicial office, the mode of appointment and removal, and which shall give to the people, not of the profession of the law, a fair proportion of the judicial stations. We now that the trained, the hackneyed lawyer will insist that for judges we need men learned in the mysteries of the law. A learned judge, at least learned in the estimation of his friends, has said that the life of the oldest lawyer was too short, to acquire a thorough knowledge of the mysteries of our laws—a very foolish remark in our opinion. But if such be the fact, we should do with the law books what Omar Califf did

When—has been very recently repaired in the best
 suitable for a lighter—1 chain cable and anchor—1
 —sails and rigging in good order—may be seen any
 time to the sale.

